

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Closed Captioning and Video Description)
of Video Programming)

MM Docket No. 95-176

To: The Commission:

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COMMENTS OF THE ASSOCIATION OF
AMERICA'S PUBLIC TELEVISION STATIONS

The Association of America's Public Television Stations ("APTS") submits these comments in response to the Commission's Notice of Inquiry in MM Docket No. 95-176 ("Notice"). The Notice requests information regarding the availability, costs, and other factors related to the provision of closed captioning and video description services in video programming.

APTS is a nonprofit organization whose membership includes nearly all of the nation's 179 public television licensees. APTS engages in planning and research activities on behalf of its members, as well as representing them in legislative and policy matters before the Commission, Congress, and the Executive Branch.

I. Public Television's Commitment To Accessible Programming

The essence of public television's mission is to provide educational, informational and cultural programming and related services to the unserved and underserved of our nation. The Public Broadcasting Act of 1967 reflected Congress's desire to "support a national policy that will most

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effectively make public telecommunications services available to all citizens of the United States.”¹ Public broadcasting stations are committed to making their programming accessible to all audiences.

In its desire to reach viewers traditionally excluded from broadcast programming, public television has taken a leadership role in making its programming accessible to deaf, hard-of-hearing, blind, and visually impaired persons. The National Center for Accessible Media, established with funding from CPB at WGBH in Boston, serves as a resource to public broadcasting in developing accessibility. The Caption Center at WGBH was established in 1971 as the world’s first captioning center. The first nationally broadcast captioned program, *The French Chef with Julia Child*, aired on PBS in 1972. Only public broadcasting carried captioning from 1972 to 1980, as it continued developing and improving captioning technology. Since that time, public broadcasting has made possible acceptance of captioning as a broadcast technology.²

Similarly, descriptive video service (“DVS”) was developed by WGBH. In 1988, PBS tested DVS nationally throughout its season of *American Playhouse*, and in 1990, PBS aired the first nationally described program *American Playhouse’s “Sense and Sensibility.”* In 1990, public television was honored by the National Academy of Television Arts and Sciences with an Emmy Award for its development of descriptive video services.

Public television stations and PBS continue to be leaders in offering closed captioning and DVS in achieving their goal of providing all persons

¹ 47 U.S.C. §396(a)(7).

² Closed captioning services also are widely used by people learning English as a second language and children and adults learning to read.

equal access to public television programming. This fact was recognized by Chairman Reed Hundt in describing what he called "the history of the partnership among the FCC and PBS and WGBH in making television accessible to people who are deaf and hard of hearing."³ As noted by the Chairman and in the current FCC Notice of Inquiry, nearly 100% of the PBS national programming service carried on public television stations is closed captioned.⁴ This is in contrast to the fact that "only 4 % of basic cable programming, and only a third of premium cable programming, is closed captioned."⁵

Similarly, PBS programming is still the only broadcast service providing DVS free to its viewers. Over 130 public television station licensees currently carry DVS services provided by PBS, reaching more than 71% of the United States population, and other public television stations are in the process of upgrading their equipment to be capable of carrying descriptions.⁶

II. Financial Impediments to Providing Accessibility

Although public television stations have an unwavering commitment to making their programming accessible to all audiences, lack of financial resources is often a barrier to providing accessibility. While nearly 100% of the PBS national program service is closed captioned, not all public

³ Speech by Chairman Reed Hundt, "Access to the New Frontier," delivered to the CPB/WGBH National Center for Accessible Media, New York, New York, December 4, 1995, at 2 ("Access to the New Frontier").

⁴ "Access to the New Frontier," at 3; Notice at ¶ 13.

⁵ *Id.* Similarly, much of the programming offered by syndicators and independent producers to public television stations is not closed captioned.

⁶ To carry descriptions, a station must broadcast in stereo and be equipped with Separate Audio Program ("SAP") capability.

television stations are able to caption their locally produced programming, because of the significant equipment acquisition and staff allocation costs associated with closed captioning local productions.⁷

Based on information APTS gathered from a survey of representative member stations that currently are captioning locally produced programming, there are significant costs involved in the decision to closed caption local productions, including up-front costs of equipment and staff training, and ongoing costs in allocating staff time, purchasing videotape, and upgrading equipment. Specialized captioning equipment to allow one staff person to caption taped programming costs between \$12,000 and \$22,000.⁸ Further, the station must provide training for the staff person to learn to caption, at a cost of approximately \$2,500, and acquire a software license for captioning. It takes 20-35 hours for a caption writer to caption one hour of taped programming, which varies in accordance with the degree of experience of the writer and the program material being captioned. Therefore, depending on the amount of locally produced programming the station captions, a station must have at least one or two full-time persons dedicated to captioning. If a station produces a few hours a week of local taped programming and wants to caption all, or nearly all, of this programming, the

⁷ APTS is focusing its comments on closed captioning of locally produced taped programming. For information regarding closed captioning and DVS services offered in nationally produced public television programming, APTS refers the Commission to the Comments of the Public Broadcasting Service and the Comments of the WGBH Educational Foundation to be filed in this proceeding.

⁸ This only includes the costs of the specialized captioning workstation and encoding equipment and does not reflect the costs of additional equipment necessary to caption, such as VCR equipment.

station will be required to purchase at least two caption stations and employ at least two full-time caption writers.⁹

In sum, the ongoing costs of captioning taped local programming, excluding the up-front equipment and training costs, represent between 5 and 8% of the local production budgets of public television stations. In lieu of in-house captioning, a station may contract with captioning centers. The costs of outside contracting are generally higher and may represent as much as 16% of the production budget for a locally produced program.¹⁰ Further, the time involved in captioning, either in-house or on a contract basis, adds additional time in the post production schedule, from two to three days to one week, depending on the length of the program.

These costs are not insignificant, especially in light of the fact that public television stations rely on federal and state funding, voluntary contributions from viewers, and grants from corporations and foundations for their existence. The APTS captioning survey of stations indicated that the main hurdle in providing closed captioning in stations' productions is funding either the cost of the equipment or staff time. While several stations have invested in training their staff persons, they have been unable to secure funding to cover the costs of purchasing captioning equipment. Stations that were fortunate to receive one time grants to cover the equipment purchase, now are finding they cannot secure the funding to upgrade of the equipment or to cover the rising costs of a staff person dedicated to captioning.

⁹ For example, a public station that distributes 3 1/2 hours per week of locally produced taped programs, plus specials, and captions 95% of that programming has spent \$40,000 on purchasing equipment and \$5,000 on training two staff people, and pays \$62,000 per year plus benefits to two full-time caption writers on staff.

¹⁰ The price for contracting captioning services is fixed, and, therefore, the percentage of the budget that the cost of such services represents varies depending upon the total budget amount.

Stations that are currently captioning rely on federal and/or state funding to cover as much as 100% of their captioning costs. The significance of this figure is particularly apparent in light of the fact that public television's federal appropriations are in jeopardy. Current congressional leaders have expressed their intent to eliminate annual federal appropriations. Moreover, public television stations dependent upon state funding also face the ongoing perils of significant cutbacks in state appropriations.¹¹ Many public television stations now facing the challenge of supporting current operations, will find it difficult, if not impossible, to realize their goal of making local productions accessible through closed captioning and DVS.

III. Mandatory Requirements and Appropriate Considerations for Waivers and Exemptions

In its Notice, the Commission notes the immediacy of legislation pending in Congress regarding mandatory requirements for media accessibility.¹² Since that time, the Telecommunications Act of 1996 has been signed into law, which mandates that the FCC must require video providers to supply closed captioning in programming by August 1997.¹³ The FCC may exempt certain classes of programming or services if the captioning requirement would be economically burdensome and may grant exemptions to petitioning individual video providers and owners on the grounds that

¹¹ While the composition of funding sources varies with each public television licensee, federal funding sources account for approximately 14% of the total funding for public television, while state and local appropriations account for approximately 22%. Further, the Public Telecommunications Financing Program ("PTFP"), which currently faces the threat of elimination, has funded an even larger percentage of the costs of public broadcasting's existing facilities.

¹² Notice, at ¶ 25 and ¶ 26.

¹³ See Telecommunications Act of 1996, Section 713 (a) .

captioning would be an undue burden.¹⁴ An undue economic burden is defined as a “significant difficulty or expense,” and the factors that Congress directed the Commission to analyze in coming to such a determination include: the nature and cost of the closed captions, the impact on the operation of the provider or program owner, the financial resources of the provider or program owner, and the type of operations of the provider or program owner.¹⁵

Although the Commission’s Notice makes clear that it is not proposing mandatory requirements at this time, it does request input generally on which entities should be subject to mandatory requirements and what factors should be considered in granting waivers and creating exemptions to the requirements. As discussed above, although public television is committed to providing accessibility to the greatest extent possible, financial constraints presently preclude many public television stations from captioning their locally produced programming. This is not surprising in light of the limited operating budgets of public television stations.¹⁶ These economic constraints will increase as the federal and state funding for public television decreases.

Therefore, APTS requests that, in considering standards upon which to base waivers or exemptions to mandatory captioning requirements, the Commission keep in mind the limited local program production budgets

¹⁴ *Id.* at Section 713 (d).

¹⁵ *Id.* at Section 713 (e).

¹⁶ The entire public television industry operates on approximately 6% of the revenues available to the commercial broadcast television industry. Indeed, the entire yearly cost of the public television industry - programming, educational services, salaries and facilities - is less than what Fox Broadcasting Company paid for one program, the four year NFL football contract.

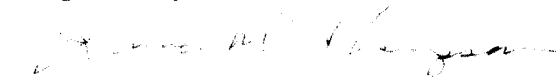
and limited operating budgets of many public television stations.

Considerations of economic burden, financial resources, and the impact upon stations' ability to produce local programming are particularly significant for publicly funded public television stations.

Conclusion

Public television continues to be dedicated to its mission of equal access to its programming and services by all people. However, financial constraints often impede public television stations' ability to provide closed captioning and DVS services in their locally produced programs. APTS, therefore, requests that the Commission keep in mind the economic realities of public television funding in its analysis of mandatory closed captioning requirements and appropriate waivers or exemptions.

Respectfully submitted,



Marilyn Mohrman-Gillis

Vice President, Policy & Legal Affairs

Lonna M. Thompson

Director, Legal Affairs

ASSOCIATION OF AMERICA'S PUBLIC
TELEVISION STATIONS

1350 Connecticut Avenue, N.W.

Washington, D.C. 20036

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